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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : **HON'BLE SHRI S.R. NAYAK, C.J.**
HON'BLE SHRI D.R. DESHMUKH, J.

M.A. NO. 1356 OF 2005

APPELLANT (NON-APPLICANT NO. 3 & 4)		National Insurance Company Limited Through : Its Divisional Manager, Divisional Office, G.E. Road, Babla Complex, Raipur (C.G.)
	Versus	
RESPONDENTS (APPLICANT NO.1)	1.	Smt. Santoshi Devi Agrawal W/o Late Ram Kumar Agrawal, aged – 45 years.
(APPLICANT NO.2)	2.	Mahavir Agrawal S/o Late Ram Kumar Agrawal, aged – 27 years.
(APPLICANT NO.3)	3.	Dharam Agrawal S/O Late Ram Kumar Agrawal, aged 25 years. All are R/o – Village-Ghess, P.S. Melchhamunda, Distt. Bargarh, (Orisa).
(NON- APPLICANT NO.1)	4.	Darshan Singh S/o Kartar Singh, aged 52 years, R/o Near Jivan Garage, Maudahapara, Raipur, (C.G.) At present- Orisa Frate Carrier, Transport Nagar, Nagpur (Maharastra).
(NON- APPLICANT NO.2)	5.	Charanjit Singh S/o Babu Singh R/o Orisa Frate Carrier, G.E. Road, Tati Bandh Raipur (C.G.)

Present : Shri Dashrath Gupta, learned counsel for the appellant.

(ORAL ORDER)
(Passed on 14th February, 2006)

The following order of the Court was passed by

S.R. Nayak, CJ.

In this appeal preferred by the Insurance Company, what was urged by the learned standing counsel for the Insurance Company is that the MACT is not justified in taking the annual income of the deceased at Rs.88,094/- on

the basis of the Income Tax return filed by the deceased during the assessment year 2003-2004, whereas the accident had taken place on 20.02.2005. The second ground urged by the learned standing counsel is that only the first claimant, the widow of the deceased was dependent on the income of the deceased and therefore, in assessing loss of dependency, the MACT ought to have deducted 50% of the income of the deceased towards his personal expenses, whereas it has deducted only 1/3rd of the income of the deceased towards personal expenses. We do not find any merit in either of the two contentions.

(2) The deceased was a businessman in textiles and in normal course, his annual income would have been more if he were to alive. In that view of the matter, we cannot take any exception to the impugned award. The deceased left behind him not only his widow, but also two sons. Of course, the sons are majors. There is absolutely no satisfactory evidence adduced by the Insurance Company to show that the sons were not at all dependents on the income of the deceased. Be that as it may, the discretion exercised by the learned MACT in deducting only 1/3rd of the income from the income of the deceased towards his personal expenses, in the facts and circumstances of the case, could not be faulted with on any rational basis. The appeal is devoid of merit and it is accordingly dismissed. No costs.

Sd/-
CHIEF JUSTICE

Sd/-
Dilip Raosaheb Deshmukh
Judge

Subbu